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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,268	04/23/2001	Egbert Berend Holtkamp	P66318US0	2525

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EXAMINER

YIP, WINNIE S

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/720,268

Applicant(s)

HOLTKAMP, EGBERT BEREND

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,7,10-16,18,21,26-28,30-33,35,37 and 42-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,11-16,18,21,26-28,30-33,35,37 and 42-44 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Part II DETAILED ACTION

This office action is in response to applicant's amendment filed on July 13, 2004.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

1. The drawings stand objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed features such as: “forming a gap between the basic panel and said covering panel” (claim 1) (the drawings only shows a gap formed between the roof panel 7 and the upper edge 10 of the side wall panel 4 or formed between the adjacent roof panels 7 and 8), “at least the roof panel of “double-walled design having an outer panel and an inner panel” (claim 13) and “an inner roof panel is located under a detachable outer roof panel” (claims 33) (the drawings only shows the side wall panel having a double-walled design but do not the roof panel having such feature), “by detachable fasteners extending along at least one of the edges” and “the fasteners include one of zippers and hook and loop fasteners” (claims 1, 10, 13, 21, 43-44), “the outer (roof) panel is provided with edge flaps” (claims 18 and 30), “under a number of the covering panel, a layer of insulating material is provided” (claim 37) must be shown or the features canceled from the claims. No new matter should be entered.

Substitute Specification Requirement

2. A substitute specification excludes the claims is required pursuant to 37 CFR 1.125(a) because applicant made a lot of amendments to the specification as originally filed. In order to

avoid any mistake, a clean version is required. A substitute specification must not contain new matter.

The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

Claim Objections

3. Claim 7 is objected to because of the following informalities: the phrase “one or more covering panels are ...” appears to more properly read: “said at least one covering panel is...” to consist with the claimed language in claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claims 1, 6-7, 10-12, 21, 26-28, 30-33, 35, , 37, 42, and 44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims 1 and 21 contain **new subject matter** which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time

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the application was filed, had possession of the claimed invention. In the claims, the basic panel which is form of “breathing tent cloth” is not supported by the specification as originally filed. The specification, as originally filed, only define the basic panel being made of “air permeable” material which is not necessary to be same as “breathing” material. Therefore, such features must be clarified or cancelled from the claims.

Due to confusion, the newly amended features in claims 1 and 21 have not been treated on the merits. Claims 1 and 21 will be treated with features of “air permeable tent cloth material” as originally filed in merits.

Claim Rejections - 35 USC § 102

5. Claims 1, 6-7, 11-12, 21, 26, and 35 as better understood, stand rejected under 35 U.S.C. 102(b) as being anticipated by Smith (US patent No. 1,833,095).

Smith teaches a tent construction being manufactured, comprising steps of: manufacturing a basic tent structure comprising a plurality of roof panels (11) and wall panels (10), each of the roof panels and wall panels having a “double-walled design” including at least one inner basic panels (2 or 3) made of a first supporting air permeable tent cloth material such as fabric mesh material around by waterproof edge strips (5, 6), and at least one outer covering panel (11 or 10) made of waterproof material and being partially removably mounted on the outer surface of the at lest one inner base panel (2 or 3) by detachable fasteners such as operating snap fasteners (16), an interspaces being inherently formed between the inner basic panel (2, 3) and the outer covering panels (10, 11) to form a hollow appearance for air passing through, wherein the inner basic panels (2 or 3) are formed by a number of relatively a narrow of edge strips (4, 5) and being arranged as roof tiles or scales, and each outer roof panel (11) having

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holes (14) for receiving tent poles (12a) of a frame of the tent and hooks (13) of one or more tensioning means such as guy ropes (7) to provide means for stretching and tautening the covering panels to open and close the interspaces between the base inner panel and the outer covering panel, the covering panels (10, 11) having straps (15) along the side of the covering panels which inherently provide expanders for stretching outward of the panels, and a door panel formed on the wall panel (10) providing an expansion member to enable putting the covering panel (10) partially into an outwardly open position as claimed.

6. Claims 1, 6-7, 11-12, 21, and 26, as better understood, stand rejected under 35 U.S.C. 102(e) as being anticipated by Yang (US patent No. 5,915,399).

Yang discloses a tent construction as a protective tent structure being manufactured, comprising steps of: manufacturing a basic tent construction having a basic inner panel made of an "air permeable" cloth like material such as screen-like knitting fabric (2), at least one outer covering panel (4) made of waterproof material which is air impervious fabrics to effectively block rainwater, said outer covering panel being partially removably mounted on the basic inner panel by suitable fastener means such as by zippers (41) or Velcro fasteners (72) along the edges (41) of the outer covering panel (4), said outer and inner panels (2 and 4) providing a double-wall on the roof and side wall of the tent structure, the inner panel (2) being provided with waterproof edge strips (3), and at least one expansion member (42) providing tensioning means for tensioning, stretching, and tautening the covering panel of the tent structure into a closed position (see Fig. 2) and enabling to put the covering panel into an outwardly open position (see Fig. 1).

7. Claims 1, 7, 10, 13, 16, 18, 21, 26-28, 30, 33, 42-44, as better understood, stand rejected under 35 U.S.C. 102(b) as being anticipated by Gustafson (US patent No. 4,719,935).

Gustafson discloses and teaches a tent construction being manufactured inherently with steps, comprising: a basic tent construction having at least one basic panel (75) formed by air permeable tent cloth material such as a mesh sheet, at least one covering panel (18) being formed by weather-resistant material, the covering panel (18) being completely or partially removably mounted to the basic panel by detachable fasteners such as by zipper (19, 83) or Velcro (87, 91) along the edges of the covering panel, a gap inherently formed between the basic panel and the covering panel, wherein the basic panel including an opening enclosed by waterproof edge strips (83) and is closed off by at least one covering panel (18 or 75), and one or more covering panels are arranged to being arranged to fold down to form the side wall panel (39).

Claim Rejections - 35 USC § 103

8. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith as applied to claim 21 above, and further in view of Abert (US Patent No. 3,598,133).

The claims are considered to met by Smith as explained and applied above rejections except that Smith does not define the tent structure having a layer of insulating material provided between the basic inner panel and the outer panel as claimed. Abert teaches a tent structure having double-walls construction including a basic inner wall (14) and an outer wall (12), wherein the walls (12, 14) having a layer of insulating material (44) for preventing the interior of the tent from heating and cooling conditions. It would have been obvious to one of ordinary

skill in the art at the time the invention was made to modify the tent structure of Smith having a layer of insulating material provided under the outer covering walls as taught by Abert for providing protection of the interior of the tent from heating and cooling condition.

Allowable Subject Matter

9. Claims 14-15, and 31-32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first and second paragraphs, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments filed July 13, 2004 have been fully considered but they are not deemed to be persuasive.

In response to applicant's argument that Smith, Yang, and Gustafson do not teach tent structures using a basic tent construction of "air-permeable" (or "breathing" as now claimed) tent cloth but having a "mosquito-netting" material which is simply used for windows ventilation but is not used for double-walls and roofs as the claimed invention, and the "mosquito-netting" does not qualify as tent cloth, it is not deemed to be persuasive. Smith, Yang, and Gustafson teach a tent structure having panels made of inner panel covered by an outer panel, wherein the inner panel is made of mesh-like cloth material for ventilation which means that when the outer panel of Smith and Yang and Gustafson's tent structure is partially removed from the inner panel, the spaced between the inner panel and the outer panel is inherently provided, and air is allowed to pass through the space between the inner and outer panels and into the "mesh" inner panel to

provide ventilation for the tent structure. As known in the art, a fabric cloth material with mesh-like openings that provides functions of “air-permeable” and “breathing” as claimed but not just for protect “mosquito”. Notice “mesh” cloth material provides opening areas which allows air passed there through, Smith, Yang, and Gustafson clearly teach that the “mesh” or “mosquito-netting” cloth material is used for provide tent panel which read on “air-permeable” and “breathing tent cloth material” as claimed. Whether or not Smith, Yang, and Gustafson’s base inner panel is provided with mosquito netting and is not skeleton as claimed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ.

In regard to applicant’s argument that Yang does not specify a gap between the inner and the covering panels, it is not persuasive because of Yang clearly teaches the tent having the inner panel being removably covered by a covering panel by detachable fasteners such as zippers along the edges. Therefore, when the detachable fastener is partially removed (i.e., only on side of the edges), a gap is inherently formed therebetween the inner and covering panels, and air is allowed to pass through the gap and the mesh-cloth material of the inner panel into the tent structure thereafter. Therefore, the claimed features broadly read on the references to Smith and Yang.

In regard to applicant’s argument that Abert does not teach a layer of insulating material is provide under a covering panel, notice applicant does not positively claims the tent having an insulation layer is provided between the inner panel and the outer covering panel. Applicant only claims “under a number of the covering panels, a layer of insulating material is provided.

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And, Abert teaches the tent having inner panel (14) covered by an outer panel (12), wherein the inner panel being made of insulating layers, therefore, the inner panel (14) of Abert broadly teaches a tent would have an insulating layer formed under an outer covering panel as claimed.

ACTION IS FINAL

11. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P. ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. ' 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. ' 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip
Primary Examiner
Art Unit 3637

wsy
November 12, 2004